

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DANIEL A. STEWART
11341G Avenida De Los Lobos
San Diego, CA 92127

Registered Nurse License No. 781070

Respondent

Case No. 2012-699

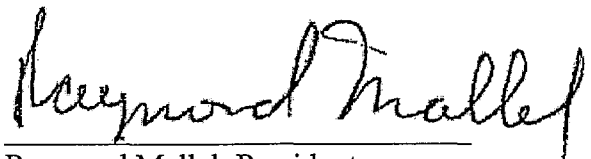
OAH No. 2012060743

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **April 12, 2013.**

IT IS SO ORDERED **March 13, 2013.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 DANIEL A. STEWART
13 11341G Avenida de los Lobos
14 San Diego, CA 92127

15 Registered Nurse License No. 781070

16 Respondent.

Case No. 2012-699

OAH No. 2012060743

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
20 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
21 which will be submitted to the Board for approval and adoption as the final disposition of the
22 Accusation.

23 **PARTIES**

24 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
25 Registered Nursing. She brought this action solely in her official capacity and is represented in
26 this matter by Kamala D. Harris, Attorney General of the State of California, by Ron Espinoza,
27 Deputy Attorney General.

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1 2. Daniel A. Stewart (Respondent) is representing himself in this proceeding and has
2 chosen not to exercise his right to be represented by counsel.

3 3. On or about August 5, 2010, the Board of Registered Nursing issued Registered
4 Nurse License No. 781070 to Respondent Daniel A. Stewart. The Registered Nurse License was
5 in full force and effect at all times relevant to the charges brought in Accusation No. 2012-699
6 and will expire on July 31, 2014, unless renewed.

7 JURISDICTION

8 4. Accusation No. 2012-699 was filed before the Board of Registered Nursing (Board),
9 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
10 and all other statutorily required documents were properly served on Respondent on
11 May 14, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

12 5. A copy of Accusation No. 2012-699 is attached as Exhibit A and incorporated herein
13 by reference.

14 ADVISEMENT AND WAIVERS

15 6. Respondent has carefully read, and understands the charges and allegations in
16 Accusation No. 2012-699. Respondent has also carefully read, and understands the effects of this
17 Stipulated Settlement and Disciplinary Order.

18 7. Respondent is fully aware of his legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
20 his own expense; the right to confront and cross-examine the witnesses against him; the right to
21 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
22 the attendance of witnesses and the production of documents; the right to reconsideration and
23 court review of an adverse decision; and all other rights accorded by the California
24 Administrative Procedure Act and other applicable laws.

25 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
26 every right set forth above.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 2012-699.

4 10. Respondent agrees that his Registered Nurse License is subject to discipline and he
5 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 RESERVATION

7 11. The admissions made by Respondent herein are only for the purposes of this
8 proceeding, or any other proceedings in which the Board of Registered Nursing or other
9 professional licensing agency is involved, and shall not be admissible in any other criminal or
10 civil proceeding.

11 CONTINGENCY

12 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
13 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
14 Registered Nursing may communicate directly with the Board regarding this stipulation and
15 settlement, without notice to or participation by Respondent. By signing the stipulation,
16 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
17 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
18 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
19 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
20 the parties, and the Board shall not be disqualified from further action by having considered this
21 matter.

22 13. The parties understand and agree that copies of this Stipulated Settlement and
23 Disciplinary Order, including the signatures thereto, shall have the same force and effect as the
24 originals.

25 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 15. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Board may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 **IT IS HEREBY ORDERED** that Registered Nurse License No. 781070 issued to
8 Respondent Daniel A. Stewart is revoked. However, the revocation is stayed and Respondent is
9 placed on probation for three (3) years on the following terms and conditions.

10 **Severability Clause.** Each condition of probation contained herein is a separate and
11 distinct condition. If any condition of this Order, or any application thereof, is declared
12 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
13 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
14 and enforceable to the fullest extent permitted by law.

15 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
16 detailed account of any and all violations of law shall be reported by Respondent to the Board in
17 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
18 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
19 45 days of the effective date of the decision, unless previously submitted as part of the licensure
20 application process.

21 **Criminal Court Orders:** If Respondent is under criminal court orders, including
22 probation or parole, and the order is violated, this shall be deemed a violation of these probation
23 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

24 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
25 the conditions of the Probation Program established by the Board and cooperate with
26 representatives of the Board in its monitoring and investigation of the Respondent's compliance
27 with the Board's Probation Program. Respondent shall inform the Board in writing within no
28 more than 15 days of any address change and shall at all times maintain an active, current license

1 status with the Board, including during any period of suspension.

2 Upon successful completion of probation, Respondent's license shall be fully restored.

3 3. **Report in Person.** Respondent, during the period of probation, shall appear in
4 person at interviews/meetings as directed by the Board or its designated representatives.

5 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
6 practice as a registered nurse outside of California shall not apply toward a reduction of this
7 probation time period. Respondent's probation is tolled, if and when he resides outside of
8 California. Respondent must provide written notice to the Board within 15 days of any change of
9 residency or practice outside the state, and within 30 days prior to re-establishing residency or
10 returning to practice in this state.

11 Respondent shall provide a list of all states and territories where he has ever been licensed
12 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
13 information regarding the status of each license and any changes in such license status during the
14 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
15 license during the term of probation.

16 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
17 or cause to be submitted such written reports/declarations and verification of actions under
18 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
19 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
20 Respondent shall immediately execute all release of information forms as may be required by the
21 Board or its representatives.

22 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
23 state and territory in which he has a registered nurse license.

24 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
25 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
26 6 consecutive months or as determined by the Board.

27 For purposes of compliance with the section, "engage in the practice of registered nursing"
28 may include, when approved by the Board, volunteer work as a registered nurse, or work in any

1 non-direct patient care position that requires licensure as a registered nurse.

2 The Board may require that advanced practice nurses engage in advanced practice nursing
3 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

4 If Respondent has not complied with this condition during the probationary term, and
5 Respondent has presented sufficient documentation of his good faith efforts to comply with this
6 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
7 extension of Respondent's probation period up to one year without further hearing in order to
8 comply with this condition. During the one year extension, all original conditions of probation
9 shall apply.

10 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
11 prior approval from the Board before commencing or continuing any employment, paid or
12 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
13 performance evaluations and other employment related reports as a registered nurse upon request
14 of the Board.

15 Respondent shall provide a copy of this Decision to his employer and immediate
16 supervisors prior to commencement of any nursing or other health care related employment.

17 In addition to the above, Respondent shall notify the Board in writing within seventy-two
18 (72) hours after he obtains any nursing or other health care related employment. Respondent
19 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
20 regardless of cause, from any nursing, or other health care related employment with a full
21 explanation of the circumstances surrounding the termination or separation.

22 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
23 Respondent's level of supervision and/or collaboration before commencing or continuing any
24 employment as a registered nurse, or education and training that includes patient care.

25 Respondent shall practice only under the direct supervision of a registered nurse in good
26 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
27 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
28 approved.

1 Respondent's level of supervision and/or collaboration may include, but is not limited to the
2 following:

3 (a) Maximum - The individual providing supervision and/or collaboration is present in
4 the patient care area or in any other work setting at all times.

5 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
6 care unit or in any other work setting at least half the hours Respondent works.

7 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
8 person communication with Respondent at least twice during each shift worked.

9 (d) Home Health Care - If Respondent is approved to work in the home health care
10 setting, the individual providing supervision and/or collaboration shall have person-to-person
11 communication with Respondent as required by the Board each work day. Respondent shall
12 maintain telephone or other telecommunication contact with the individual providing supervision
13 and/or collaboration as required by the Board during each work day. The individual providing
14 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
15 patients' homes visited by Respondent with or without Respondent present.

16 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
17 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
18 or for an in-house nursing pool.

19 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
20 registered nursing supervision and other protections for home visits have been approved by the
21 Board. Respondent shall not work in any other registered nursing occupation where home visits
22 are required.

23 Respondent shall not work in any health care setting as a supervisor of registered nurses.
24 The Board may additionally restrict Respondent from supervising licensed vocational nurses
25 and/or unlicensed assistive personnel on a case-by-case basis.

26 Respondent shall not work as a faculty member in an approved school of nursing or as an
27 instructor in a Board approved continuing education program.

28 Respondent shall work only on a regularly assigned, identified and predetermined

1 worksite(s) and shall not work in a float capacity.

2 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
3 request documentation to determine whether there should be restrictions on the hours of work.

4 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and
5 successfully complete a course(s) relevant to the practice of registered nursing no later than six
6 months prior to the end of his probationary term.

7 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
8 Respondent shall submit to the Board the original transcripts or certificates of completion for the
9 above required course(s). The Board shall return the original documents to Respondent after
10 photocopying them for its records.

11 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
12 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
13 amount of \$1,920.00. Respondent shall be permitted to pay these costs in a payment plan
14 approved by the Board, with payments to be completed no later than three months prior to the end
15 of the probation term.

16 If Respondent has not complied with this condition during the probationary term, and
17 Respondent has presented sufficient documentation of his good faith efforts to comply with this
18 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
19 extension of Respondent's probation period up to one year without further hearing in order to
20 comply with this condition. During the one year extension, all original conditions of probation
21 will apply.

22 12. **Violation of Probation.** If Respondent violates the conditions of his probation, the
23 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
24 and impose the stayed discipline (revocation) of Respondent's license.

25 If during the period of probation, an accusation or petition to revoke probation has been
26 filed against Respondent's license or the Attorney General's Office has been requested to prepare
27 an accusation or petition to revoke probation against Respondent's license, the probationary
28 period shall automatically be extended and shall not expire until the accusation or petition has

1 been acted upon by the Board.

2 **13. License Surrender.** During Respondent's term of probation, if he ceases practicing
3 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
4 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
5 Respondent's request and to exercise its discretion whether to grant the request, or to take any
6 other action deemed appropriate and reasonable under the circumstances, without further hearing.
7 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
8 subject to the conditions of probation.

9 Surrender of Respondent's license shall be considered a disciplinary action and shall
10 become a part of Respondent's license history with the Board. A registered nurse whose license
11 has been surrendered may petition the Board for reinstatement no sooner than the following
12 minimum periods from the effective date of the disciplinary decision:

13 (1) Two years for reinstatement of a license that was surrendered for any reason other
14 than a mental or physical illness; or

15 (2) One year for a license surrendered for a mental or physical illness.

16 **14. Mental Health Examination.** Respondent shall, within 45 days of the effective date
17 of this Decision, have a mental health examination including psychological testing as appropriate
18 to determine his capability to perform the duties of a registered nurse. The examination will be
19 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
20 the Board. The examining mental health practitioner will submit a written report of that
21 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
22 Recommendations for treatment, therapy or counseling made as a result of the mental health
23 examination will be instituted and followed by Respondent.

24 If Respondent is determined to be unable to practice safely as a registered nurse, the
25 licensed mental health care practitioner making this determination shall immediately notify the
26 Board and Respondent by telephone, and the Board shall request that the Attorney General's
27 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
28 practice and may not resume practice until notified by the Board. During this period of

1 suspension, Respondent shall not engage in any practice for which a license issued by the Board
2 is required, until the Board has notified Respondent that a mental health determination permits
3 Respondent to resume practice. This period of suspension will not apply to the reduction of this
4 probationary time period.


5 If Respondent fails to have the above assessment submitted to the Board within the 45-day
6 requirement, Respondent shall immediately cease practice and shall not resume practice until
7 notified by the Board. This period of suspension will not apply to the reduction of this
8 probationary time period. The Board may waive or postpone this suspension only if significant,
9 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
10 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
11 Only one such waiver or extension may be permitted.

12 15. **Therapy or Counseling Program.** Respondent, at his expense, shall participate in
13 an on-going counseling program until such time as the Board releases him from this requirement
14 and only upon the recommendation of the counselor. Written progress reports from the counselor
15 will be required at various intervals.

16
17 ACCEPTANCE

18 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
19 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
20 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
21 bound by the Decision and Order of the Board of Registered Nursing.

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23 DATED: 8 Nov 12

24 
DANIEL A. STEWART
Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 11-13-12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



RON ESPINOZA
Deputy Attorney General
Attorneys for Complainant

SD2012703226
Stipulation.rtf

Exhibit A

Accusation No. 2012-699

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
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Attorneys for Complainant

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 202-699

13 **DANIEL A. STEWART**
11341G Avenida de los Lobos
14 San Diego, CA 92127

A C C U S A T I O N

15 **Registered Nurse License No. 781070**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about August 5, 2010, the Board of Registered Nursing issued Registered
24 Nurse License Number 781070 to Daniel A. Stewart (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on July 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

9

10 (f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

12

13 10. Section 2765 of the Code states:

14 A plea or verdict of guilty or a conviction following a plea of nolo contendere
15 made to a charge substantially related to the qualifications, functions and duties of a
16 registered nurse is deemed to be a conviction within the meaning of this article. The
board may order the license or certificate suspended or revoked, or may decline to
17 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
18 suspending the imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
19 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
guilty, or dismissing the accusation, information or indictment.

20 REGULATORY PROVISIONS

21 11. California Code of Regulations, title 16, section 1444, states:

22 A conviction or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a
24 manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

25 (a) Assaultive or abusive conduct including, but not limited to, those violations
26 listed in subdivision (d) of Penal Code Section 11160.

27 (b) Failure to comply with any mandatory reporting requirements.

28 (c) Theft, dishonesty, fraud, or deceit.

1 (d) Any conviction or act subject to an order of registration pursuant to Section
2 290 of the Penal Code.

3 12. California Code of Regulations, title 16, section 1445 states:
4

5 (b) When considering the suspension or revocation of a license on the grounds
6 that a registered nurse has been convicted of a crime, the board, in evaluating the
7 rehabilitation of such person and his/her eligibility for a license will consider the
8 following criteria:

9 (1) Nature and severity of the act(s) or offense(s).

10 (2) Total criminal record.

11 (3) The time that has elapsed since commission of the act(s) or offense(s).

12 (4) Whether the licensee has complied with any terms of parole, probation,
13 restitution or any other sanctions lawfully imposed against the licensee.

14 (5) If applicable, evidence of expungement proceedings pursuant to Section
15 1203.4 of the Penal Code.

16 (6) Evidence, if any, of rehabilitation submitted by the licensee.

17 COSTS

18 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licensee found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 CAUSE FOR DISCIPLINE

23 (October 17, 2011 Criminal Conviction for

24 Peeking Through a Private Area on January 13, 2011)

25 14. Respondent has subjected his license to disciplinary action under sections 490 and
26 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
27 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
28 follows:

a. On or about October 17, 2011, in a criminal proceeding entitled *People of the
State of California v. Daniel Alan Stewart*, in San Diego County Superior Court, case number

1 M129495, Respondent was convicted on his plea of guilty of violating Penal Code section 647,
2 subdivision (j)(1), disorderly conduct (peeking through a private area), a misdemeanor. An
3 additional count of destroying or concealing documentary evidence (Pen. Code, § 135) was
4 dismissed pursuant to a plea agreement.

5 b. As a result of the conviction, on or about October 17, 2011, Respondent was
6 sentenced to three years summary probation, and ordered to pay \$535 in fees and fines.

7 Respondent was further ordered to complete counseling with a licensed therapist.

8 c. The facts that led to the conviction are that on or about the evening of
9 January 13, 2011, the San Diego Police Department was dispatched to a report of two males
10 fighting outside of a San Diego Target store. Upon arrival, the officer made contact with
11 Respondent. When asked what was going on, Respondent told the officer "I was filming her in
12 the dressing room." Respondent admitted to the officer that he was in a dressing room and
13 noticed a female in the stall next to his. He turned on the video application of his cell phone,
14 placed the phone underneath the dressing room stall, and filmed the female for approximately 10-
15 15 seconds. The female victim kicked the phone out of Respondent's hand. Respondent
16 panicked and left the dressing room stall. The victim attempted to grab Respondent, but he
17 moved past her and started running out of the store. Respondent stated he was tackled by a male
18 outside of the store. While he was being held down, Respondent admitted that he took the
19 memory card out of his phone and snapped it in half. Witnesses stated that they saw Respondent
20 attempt to stomp on his cell phone. Respondent was placed under citizen's arrest.

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PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 781070, issued to Daniel A. Stewart;

2. Ordering Daniel A. Stewart to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: May 14, 2012

for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2012703226